



Senate

General Assembly

File No. 195

January Session, 2007

Substitute Senate Bill No. 1356

Senate, March 29, 2007

The Committee on Environment reported through SEN. FINCH of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE ESTABLISHMENT OF A CONNECTICUT MILK COMMISSION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2007*) As used in this section and
2 sections 2 to 10, inclusive, of this act:

3 (1) "Books and records" means any book, ledger, record, account,
4 memoranda or other data pertaining to the purchase and distribution
5 of milk;

6 (2) "Milk commission" means the Connecticut Milk Commission;

7 (3) "Consumer" means any person other than a milk dealer who
8 purchases fluid milk for consumption;

9 (4) "Dealer" means any person who purchases or receives milk for
10 sale as the consignee or agent of a producer, or handles milk for sale,
11 shipment, storage or processing within this state and shall include a
12 producer-dealer and a sub-dealer, but shall not include a store other

13 than an integrated operation;

14 (5) "Department" means the Department of Agriculture;

15 (6) "Integrated operation" means a person who is a dealer and who
16 also sells at retail the milk of their own production;

17 (7) "Market" means any city, town or parts thereof of this state;

18 (8) "Milk" has the same meaning as used in 7 CFR 1000.15 and 7 CFR
19 1000.16, including, but not limited to, whole milk, skim milk, low fat
20 milk, reduced fat milk, half and half, flavored milk and cultured milks;

21 (9) "Person" means any individual, partnership, firm, corporation,
22 association or other unit created to conduct business in this state,
23 except state and municipally owned and operated institutions;

24 (10) "Producer" means any person who produces milk and sells such
25 milk only to dealers;

26 (11) "Producer-dealer" means a dealer who processes and sells milk
27 of their own production;

28 (12) "Retail sale" includes home delivery and over-the-counter sales
29 by stores;

30 (13) "Store" means a grocery store, dairy product store, canteen, milk
31 vending machine operator, milk dispensing operator or any similar
32 commercial establishment or outlet or any other entity that sells milk
33 directly to consumers;

34 (14) "Sub-dealer" means any person who does not process milk and
35 who purchases milk from a dealer and sells such milk in the same
36 containers in which it was purchased, but shall not include a store;

37 (15) "Wholesale sale" means the sale of milk to any other dealer;

38 (16) "Retail store" means a grocery store, dairy product store or any
39 similar commercial establishment where milk is sold to consumers for

40 consumption off the premises;

41 (17) "Annual production" means the total quantity of milk,
42 expressed in hundredweight, produced in a twelve-month period
43 beginning June first and ending May thirty-first of the next calendar
44 year;

45 (18) "Base price" means the statistically uniform price announced by
46 the administrator of the Northeast Marketing Area Milk Marketing
47 Order. The base price includes payments from other states and the
48 federal government for milk produced by milk producers in this state;
49 and

50 (19) "Target price" means the milk price established by the milk
51 commission pursuant to section 4 of this act.

52 Sec. 2. (NEW) (*Effective July 1, 2007*) (a) There is established a
53 Connecticut Milk Commission, which shall include the Commissioner
54 of Agriculture or the commissioner's designee. Said commissioner, or
55 commissioner's designee, shall serve as an ex-officio member with no
56 right to vote, except to break a tie vote.

57 (b) The Governor, in accordance with section 4-9a of the general
58 statutes and with the advice and consent of either house of the General
59 Assembly, shall appoint four electors of the state to the Connecticut
60 Milk Commission, none of whom have an active or financial interest in
61 the production, processing, sale or distribution of milk. The first such
62 elector shall serve a term of one year, commencing the date of his or
63 her appointment. The second such elector shall serve a term of two
64 years, commencing the date of his or her appointment. The third such
65 elector shall serve a term of three years, commencing the date of his or
66 her appointment. The remaining such elector shall serve a term of four
67 years, commencing the date of his or her appointment, and shall serve
68 until their successors are duly appointed and qualified. A vacancy in
69 the membership of the milk commission shall be filled by appointment
70 by the Governor. The Governor, for cause and after a public hearing,
71 may remove any appointed member of the milk commission.

72 (c) A member of the milk commission shall not, at the time of
73 appointment or while serving as a member of the milk commission,
74 have a business or professional relationship or connection with or a
75 financial interest in any producer, dealer, store or other person whose
76 activities are subject to the jurisdiction of the milk commission. An
77 employee of the milk commission employed pursuant to subsection (d)
78 of this section shall not have a business or professional relationship or
79 connection with or a financial interest in any producer, dealer, store or
80 other person whose activities are subject to the jurisdiction of the milk
81 commission. A member or employee of the milk commission shall not
82 render, or be a member of a firm that renders, any professional or
83 other service for or against a producer, dealer, store or other person
84 whose activities are subject to the jurisdiction of the milk commission.

85 (d) The members of the milk commission shall elect a chairperson.
86 The milk commission shall adopt bylaws for the conduct of its affairs
87 and shall have the authority to amend and repeal such bylaws as
88 necessary. The milk commission may enter into a memorandum of
89 understanding with any state agency or state institution to provide
90 assistance or staff to enforce, implement and carry out the provisions
91 of this section. The milk commission shall make use of professional,
92 expert or other resources available within the various departments and
93 entities of state government, including, but not limited to, the
94 Department of Agriculture, the office of the Attorney General and The
95 University of Connecticut. Such departments shall, within existing
96 resources, provide necessary and appropriate services at the request of
97 said commission. To the extent these services are not available or
98 otherwise inadequate, the milk commission may, within existing
99 resources, employ appropriate experts, professionals or others
100 necessary to assist it in carrying out its duties.

101 (e) The milk commission shall be under the jurisdiction of the
102 Department of Agriculture for administrative purposes. The milk
103 commission shall, within existing resources, be furnished with all
104 necessary equipment and supplies and with a suitable office within
105 said department. Each member of the milk commission appointed

106 pursuant to subsection (b) of this section shall receive one hundred
107 dollars for each milk commission meeting such member attends.

108 (f) There is established a milk regulation account, which shall be a
109 separate, nonlapsing account within the General Fund. All monetary
110 penalties collected for violations of chapter 430 and chapter 431 of the
111 general statutes and of sections 1 to 10, inclusive, of this act, and all
112 license, permit or registration fees collected pursuant to said chapters
113 and said sections shall be deposited into said account. All costs
114 incurred by the milk commission in the discharge of its duties
115 pursuant to sections 1 to 10, inclusive, of this act shall be paid from
116 said account.

117 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) The milk commission shall
118 meet at least once during the month of October and shall keep a
119 written record of all its proceedings.

120 (b) At least once every three years, the commission shall conduct an
121 independent study of the economics and practices of the milk industry
122 in order to assist itself in establishing minimum milk prices. Any such
123 study shall include, but not be limited to, the compilation of cost and
124 profit data of dairy farms, milk processors, milk distributors and milk
125 retailers.

126 (c) The chairperson of the milk commission may call a special
127 meeting of the milk commission when he or she determines such
128 meeting is necessary or when such a meeting has been requested, in
129 writing, by two or more members of the milk commission.

130 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) The milk commission may,
131 in consultation with the Commissioner of Agriculture and after a
132 hearing held pursuant to the provisions of chapter 54 of the general
133 statutes: (1) Establish minimum prices for milk sold in the state; (2)
134 establish separate minimum price categories to reflect different
135 container costs; (3) establish separate minimum price categories for
136 different quantities of packaged milk and milk sold in separate
137 containers; (4) establish separate minimum price categories to reflect

138 identifiable distribution costs; (5) establish a system of premiums or
139 payments to milk producers for the production of particular types or
140 quality of milk, or for the production of milk which milk dealers
141 market as a specialty or value-added product which differs from
142 common milk offered for sale in the state, or to offset unusual market
143 or economic conditions which negatively affect milk producer
144 profitability; and (6) establish and change the minimum wholesale and
145 retail prices of milk sold or offered for sale in the state.

146 (b) The milk commission shall not have any powers or duties
147 regarding milk quality or the sanitary regulation of any business.

148 Sec. 5. (NEW) (*Effective July 1, 2007*) (a) The milk commission may,
149 in consultation with the Commissioner of Agriculture and after a
150 hearing held pursuant to the provisions of chapter 54 of the general
151 statutes, establish or change producer target milk prices. When
152 establishing such target milk prices, the milk commission shall study
153 and consider the various costs of producing milk in the state and the
154 effect of the target price on consumers. A target milk price of seventeen
155 dollars per one hundred pounds of milk produced shall be in effect
156 until changed by the milk commission.

157 (b) For each month that the base price is below the target price, the
158 milk commission shall distribute to each milk producer in this state an
159 amount of money equal to such milk producer's previous month's
160 production in hundredweight, multiplied by the difference between
161 the applicable target price and the base price in the previous month.

162 (c) When the milk commission makes a finding and establishes or
163 changes target milk prices, premiums or payments to producers, the
164 milk commission may establish or change the minimum prices charged
165 by milk dealers to other milk dealers, milk processors, milk sub-
166 dealers, restaurants, institutions, food service operators and retail
167 stores and the minimum prices to be charged to consumers for milk,
168 under varying conditions, as will best ensure a sufficient quantity of
169 fresh fluid milk to the inhabitants of this state.

170 Sec. 6. (NEW) (*Effective July 1, 2007*) Every producer, cooperative,
171 milk handler, milk dealer, milk distributor and milk retailer shall keep
172 and provide to the milk commission, at such times and in a manner
173 and form as may be prescribed by the milk commission, accounts of all
174 business transacted in the state that is related to the production,
175 purchasing, processing, sale or distribution of milk. Such accounts
176 shall reasonably reflect, in such detail as the milk commission
177 prescribes, income, expense, assets, liabilities and such other
178 accounting entries as the milk commission considers necessary, to
179 assist the milk commission in making its determinations.

180 Sec. 7. (NEW) (*Effective July 1, 2007*) The milk commission shall have
181 power to enter into agreements with legally constituted milk
182 commissions or similar authorities of other states or of the United
183 States, to effect uniformity in regulating and insuring an adequate
184 supply of pure and wholesome milk to the inhabitants of the state and
185 to provide consistency and coordination in control of milk produced in
186 the state and handled in interstate and intrastate commerce.

187 Sec. 8. (NEW) (*Effective July 1, 2007*) (a) When the milk commission
188 believes that a violation of sections 1 to 10, inclusive, of this act or of
189 any regulation, order or decision adopted or made pursuant to
190 sections 1 to 9, inclusive, of this act has occurred, the milk commission
191 may, by majority vote, order any person to cease such violation. When
192 issuing an order, said milk commission shall notify any person who
193 would be aggrieved by the order of his or her right to a hearing
194 pursuant to chapter 54 of the general statutes. If a person is aggrieved
195 by an order of the milk commission, such aggrieved party may request
196 a hearing pursuant to the provisions of said chapter 54. After such
197 hearing, said milk commission shall publish its findings and issue a
198 final order not later than thirty days after such hearing. Any person
199 aggrieved by a final order issued pursuant to this section may appeal
200 such final order to the Superior Court. In responding to such an
201 appeal, said milk commission may seek enforcement of its order and
202 civil penalties for any violation found by the court, and the court, if it
203 upholds the order, may order such enforcement and civil penalties.

204 (b) In administering sections 1 to 10, inclusive, of this act, the milk
205 commission may: (1) Subpoena and examine under oath persons
206 whose activities are subject to the jurisdiction of the milk commission,
207 including producers, dealers and stores and their officers, agents and
208 representatives; and (2) subpoena and examine the business records,
209 books and accounts of persons whose activities are subject to the
210 jurisdiction of the milk commission, including producers, dealers and
211 stores and their officers, agents and representatives.

212 (c) Any member of the milk commission and any agent designated
213 by the milk commission may sign subpoenas and administer oaths to
214 witnesses.

215 (d) The milk commission shall ensure that milk dealers and milk
216 distributors give thirty days notice to customers prior to terminating
217 delivery to such customers in their delivery area or in the delivery area
218 of a milk dealer or milk distributor in which they purchase milk. Such
219 notice shall not apply to cancellation of milk delivery resulting from a
220 failure to pay bills.

221 Sec. 9. (NEW) (*Effective July 1, 2007*) No provision of this act shall
222 prevent a producer cooperative association or producer cooperative
223 corporation authorized to transact business in this state which sells the
224 milk of or for its members or of persons under contract with such
225 producer cooperative association or producer cooperative corporation
226 from blending the proceeds of their net sales either in or out of this
227 state and so paying its members.

228 Sec. 10. (NEW) (*Effective July 1, 2007*) The Commissioner of
229 Agriculture shall adopt regulations, in accordance with chapter 54 of
230 the general statutes, to carry out the purposes of sections 1 to 10,
231 inclusive, of this act.

232 Sec. 11. Section 22-203cc of the general statutes is repealed and the
233 following is substituted in lieu thereof (*Effective July 1, 2007*):

234 Upon the establishment of the Northeast Interstate Dairy Compact

235 Commission as provided for in section 22-203aa, the Governor shall
236 appoint two of the state's delegation to said commission from among
237 the members of the [Milk Regulation Board established under section
238 22-131] Connecticut Milk Commission established pursuant to section
239 2 of this act. The [delegation shall include one member] Governor shall
240 appoint one additional member to the Northeast Interstate Dairy
241 Compact Milk Commission who represents the interests of [milk
242 consumers, one member who is a processor of milk and two members
243 who are] dairy farmers. [In addition to the members of the delegation
244 from the Milk Regulation Board, the Governor shall appoint one
245 retailer of milk to the delegation.]

246 Sec. 12. Section 22-231 of the general statutes is repealed and the
247 following is substituted in lieu thereof (*Effective July 1, 2007*):

248 The Commissioner of Agriculture may refuse to grant or renew a
249 license, or may suspend, revoke or refuse to transfer a license already
250 granted, after the commissioner has determined that the applicant or
251 dealer: (1) Has failed to comply, or has been a responsible member or
252 officer of a partnership or corporation which failed to comply, with
253 any provision of this part or any order, ruling, regulation or direction
254 issued hereunder; (2) has insufficient financial responsibility,
255 personnel or equipment to properly to conduct the milk business; (3) is
256 a person, partnership, corporation or other business entity, in which
257 any individual holding a material position, interest or power of control
258 has previously been responsible in whole or in part for any act on
259 account of which a license was or may be denied, suspended or
260 revoked under the provisions of this part; (4) has failed to file a bond
261 required by the commissioner under the provisions of this part; (5) if
262 located out of the state, has failed to obtain a satisfactory milk
263 sanitation compliance rating from a certified state milk sanitation
264 rating officer; (6) is not in compliance with all laws and regulations of
265 the state pertaining to health and sanitation in the production,
266 processing, handling or sale of milk; (7) has rejected, without
267 reasonable cause, any milk purchased from a producer, or has refused
268 to accept, without either reasonable cause or reasonable advance

269 notice, milk delivered by or on behalf of a producer in ordinary
 270 continuance of a previous course of dealing, except when the contract
 271 has been lawfully terminated; provided, in the absence of an express or
 272 implied fixing of a period in the contract, "reasonable advance notice"
 273 shall be construed to mean not less than one week or more than two
 274 weeks; (8) has continued in a course of dealing of such nature as to
 275 show an intent to deceive, defraud or impose upon producers or
 276 consumers; (9) has violated any stipulation or written agreement
 277 entered into with the commissioner in the course of any proceeding
 278 under this part; (10) has made a false material statement in his or her
 279 application; [or] (11) has failed to provide information required under
 280 this chapter; or (12) has failed to comply with the provisions of sections
 281 1 to 10, inclusive, of this act or of any order or rule of the Connecticut
 282 Milk Commission or of any regulation adopted by the Commissioner
 283 of Agriculture.

284 Sec. 13. (NEW) (*Effective July 1, 2007*) If any part of sections 1 to 10,
 285 inclusive, of this act is for any reason held to be invalid, unlawful or
 286 unconstitutional, such decision shall not affect the validity of the
 287 remaining portions and the remaining portions shall not be affected
 288 and shall remain in full force and effect.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	New section
Sec. 2	<i>July 1, 2007</i>	New section
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>July 1, 2007</i>	New section
Sec. 6	<i>July 1, 2007</i>	New section
Sec. 7	<i>July 1, 2007</i>	New section
Sec. 8	<i>July 1, 2007</i>	New section
Sec. 9	<i>July 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section
Sec. 11	<i>July 1, 2007</i>	22-203cc
Sec. 12	<i>July 1, 2007</i>	22-231
Sec. 13	<i>July 1, 2007</i>	New section

Statement of Legislative Commissioners:

Section 10 was rewritten to comply with existing statutory authority.

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Agriculture	GF - Cost	See Below	See Below
Attorney General	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill creates a Milk Commission. It also sets up a system for dairy farmers to receive additional funds for the milk they produce and creates a non lapsing separate General Fund account to cover the program costs. It is anticipated that the Department of Agriculture (DOAG) will require 1 accountant at a cost of \$52,800 in FY 2008 plus fringe benefits¹, 1 staff attorney at a cost of \$60,800 plus fringe benefits, 1 clerk/typist at a cost of \$32,700 plus fringe benefits and approximately \$5,000 in associated other expenses. In addition, compensation for the Commission (each of the 4 members receive \$1000 per meeting) is estimated between \$800 and \$2400 a year. Additional costs would be incurred for hearings and studies. These costs are to be paid through the new Milk Regulation Account. It is unclear from the bill where the funds to pay the dairy farmers will come from or the amount that will be collected per year. However, it is anticipated that start up costs would need to be appropriated

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

through the General Fund in FY 2008. The account is to be capitalized through milk licenses and permits and violations. The current amount collected is approximately \$175,000 a year. Therefore, the revenues will not cover the costs of implementing the bill.

The Office of the Attorney General could provide assistance to the Connecticut Milk Commission, through a workload increase and without additional appropriations.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1356*****AN ACT CONCERNING THE ESTABLISHMENT OF A
CONNECTICUT MILK COMMISSION.*****SUMMARY:**

This bill creates the Connecticut Milk Commission and gives it broad powers to regulate milk pricing in the state. It establishes the commission's duties and powers, including the power, after consulting with the agriculture commissioner and holding a hearing, to set (1) a target price for milk producers (i.e., an additional amount certain dairy farmers are paid for milk they produce) and (2) minimum prices for milk sold in the state,. Specifically, the bill sets a target price of \$17 per hundredweight (11.6 gallons of milk) and requires the commission to pay dairy farmers the difference between it and the federally set price paid for milk they produce. It also allows the commission to change the minimum amount certain entities charge for milk. Thus, the bill (1) provides a system by which dairy farmers may receive additional funds for their milk and (2) allows the commission to correspondingly regulate minimum milk pricing at various levels in the chain from production to sale.

The bill provides that if the court holds any of the bill's provisions invalid, unlawful, or unconstitutional, that decision does not affect the remaining provisions, which remain in full force and effect.

The bill creates a Milk Regulation Account to cover the cost of the commission's activities, presumably including the funds it must pay dairy farmers. It requires proceeds collected from violations of the bill; milk and milk industry law, and all milk-related license, permit, or registration fees to fund the account. The account is a separate, non-lapsing account in the General Fund.

The bill requires every milk-related business to provide the commission, as it sees fit, information about their business transactions in the state pertaining to milk production, purchasing, processing, sale, or distribution.

The bill additionally:

1. empowers the commission to enter into agreements with legally constituted milk commissions or similar authorities of other states or the federal government to (a) effect uniformity in regulating and insuring an adequate milk supply for state residents and (b) provide consistency and coordination in control of Connecticut-produced milk and its handling in interstate and intrastate commerce;
2. specifies that its provisions do not prevent a producer cooperative association or corporation from blending the proceeds of its net sales either in or out of the state and so paying its members, if it is authorized to transact business in Connecticut and sell the milk of or for its members or of people with whom they contract;
3. provides that the Milk Commission does not have any powers or duties regarding milk quality or the sanitary regulation of any business, which, by law, are under the Milk Regulation Board's jurisdiction;
4. allows the agriculture commissioner to refuse to grant, renew, suspend, revoke, or refuse to transfer a milk dealer's license, if the dealer does not comply with the bill's provisions or orders or rules issued under it; and
5. changes the composition of the state delegation to the Northeast Interstate Dairy Compact.

Finally, the bill requires the agriculture commissioner to adopt regulations to carry out its purposes.

EFFECTIVE DATE: July 1, 2007

MILK COMMISSION TARGET PRICE AND MINIMUM PRICE SETTING POWERS

The bill establishes the commission's powers, including setting (1) a target price for milk producers, which provides funds from the commission to dairy farmers depending on the federally set price and (2) setting minimum prices for milk.

Currently, federal law governs the price dairy farmers are paid for milk and milk products. Generally, U. S. Department of Agriculture marketing orders set these prices by region. One order prescribes the price paid in New England and the Mid-Atlantic states. The order is broken down into class 1 (fluid) milk and various other classes of milk products. Under the bill, the federally set class I price is referred to as the "base price." The bill allows the commission to set a "target price" per hundredweight (11.6 gallons of milk) and establishes that price at \$17, until the commission changes it.

Target Price

In consultation with the agriculture commissioner and after a hearing, the bill allows the milk commission to establish or change milk producer target milk prices. When setting a new target price (should it change the \$17 per hundredweight. The bill requires the milk commission to study and consider the various costs of producing milk in the state and the effect of the target price on consumers.

The bill provides that for each month that the base price is below the target price, the milk commission must distribute to each state milk producer the difference between the target price and the base price. Specifically, the commission must provide an amount equal to the milk producer's previous month's production in hundredweight, multiplied by the difference between the applicable target price and the base price in the previous month.

The bill defines a milk producer as anyone who produces milk and sells it only to dealers. It defines a dealer as anyone who purchases or

receives milk for sale as a producer's consignee or agent or handles milk for sale, shipment, storage, or processing in the state, including a producer-dealer and a sub-dealer, but not a store other than an integrated operation.

The bill also allows the commission to establish a system of premiums or payments to milk producers (1) for the production of particular types or quality of milk, (2) for the production of milk that milk dealers market as a specialty or value-added product, or (3) to offset unusual market or economic conditions that reduce milk producer profitability.

Under the bill, when the milk commission makes a finding and establishes or changes target milk prices, premiums, or payments to producers, it may establish or change the minimum prices milk dealers charge to other milk dealers, milk processors, milk sub-dealers, restaurants, institutions, food service operators, and retail stores. Under these circumstances, it may also establish or change the minimum prices consumers can be charged for milk, under varying conditions, to best ensure a sufficient quantity of fresh fluid milk to state residents.

Minimum Prices and Premiums or Payments

In consultation with the agriculture commissioner and after a hearing, the bill allows the milk commission to establish:

1. minimum prices paid to producers for milk they sell;
2. separate minimum price categories (a) to reflect different container costs and (b) for different quantities of packaged milk and milk sold in separate containers;
3. separate minimum price categories to reflect identifiable distribution costs; and
4. change the minimum wholesale and retail prices of milk sold or offered for sale in the state.

Definitions

The bill defines (1) a “sub-dealer” as anyone, except a store, who does not process milk and who purchases milk from a dealer and sells it in the same containers in which it was purchased, (2) a “producer-dealer” as a dealer who processes and sells milk it produces; and (3) an “integrated operation” as a dealer that sells the milk it produces at retail. It defines a store as a grocery store, dairy product store, canteen, milk vending machine operator, milk dispensing operator, any similar commercial establishment or outlet, or any other entity that sells milk directly to consumers.

REPORTING TO THE MILK COMMISSION

Under the bill, every producer, cooperative, milk handler, milk dealer, milk distributor, and milk retailer must keep and provide to the Milk Commission, when and in a way the commission prescribes, accounts of all business they transacted in the state that is related to milk production, purchasing, processing, sale, or distribution. The information must reasonably reflect their income, expense, assets, liabilities, and other accounting entries that the commission considers necessary to assist it in making its determinations.

The bill requires the commission to ensure that milk dealers and distributors give 30 days notice to customers before terminating delivery in their delivery area or delivery area dealer or in which they purchase milk. The notice does not apply to cancellation of milk delivery resulting from a failure to pay bills.

VIOLATIONS

When the Milk Commission believes someone has violated the bill’s provisions or any regulation, order, or decision it makes under the bill’s authority, the commission may, by majority vote, order the person to cease the violation. When issuing an order, the commission must notify anyone who would be aggrieved by it of his or her right to request a hearing. Within 30 days after a hearing, the commission must publish its findings and issue a final order. Anyone aggrieved by the commission’s final order may appeal to Superior Court. In responding

to such an appeal, the commission may seek enforcement of its order and civil penalties for any violation the court finds, and the court, if it upholds the order, may order such enforcement and penalties.

The bill empowers the Milk Commission to subpoena and examine (1) under oath, people whose activities are subject to the commission's jurisdiction, including producers, dealers, and stores and their officers, agents, and representatives and (2) their business records, books, and accounts.

The bill authorizes any member of the Milk Commission and any agent it designates to sign subpoenas and administer oaths.

MILK COMMISSION STRUCTURE AND DUTIES

The Milk Commission is under the Department of Agriculture's jurisdiction for administrative purposes. The department must furnish the commission, within existing resources, with all necessary equipment and supplies and a suitable office.

Membership

The commission consists of five members. The governor with the advice and consent of either house of the General Assembly, appoints four electors. The first serves a term of one year, the second serves two years, the third for three years, and the fourth for four years. Each elector serves until the successor is duly appointed and qualified, and the governor fills vacancies. The governor, for cause and after a public hearing, may remove any appointed member. The agriculture commissioner or the commissioner's designee serves as an ex-officio member with no right to vote, except to break a tie vote.

The bill prohibits a Milk Commission member from having a business or professional relationship or connection with or a financial interest in any producer, dealer, store, or other person whose activities are subject to the commission's jurisdiction at the time of appointment to or while serving as a member. A commission member also cannot render, or be a member of a firm that renders, any professional or other service for or against a producer, dealer, store, or other person

whose activities are subject to the commission's jurisdiction.

The four appointees receive \$100 for each milk commission meeting they attend.

Commission Chairperson and Duties

The bill requires the commission's members to elect a chairperson. The commission must adopt bylaws to conduct its affairs, which it can amend and repeal as necessary.

Commission Interaction with Other State Entities

The Milk Commission may enter into a memorandum of understanding with any state agency or state institution to provide assistance or staff to enforce, implement, and carry out its purposes. The commission must make use of professional, expert, or other resources available in state government, including the Department of Agriculture, Attorney General's Office, and University of Connecticut. The bill requires the departments, within existing resources, to provide necessary and appropriate services when the commission requests.

Power to Hire

To the extent that other state entities' services are not available or adequate, the Milk Commission may, within existing resources, employ appropriate experts, professionals, or others necessary to assist it in carrying out its duties. A Milk Commission employee cannot, (1) have a business or professional relationship or connection with or a financial interest in any producer, dealer, store, or other person whose activities are subject to the commission's jurisdiction. An employee cannot, or (2) render, or be a member of a firm that renders, any professional or other service for or against a producer, dealer, store, or other person whose activities are subject to the commission's jurisdiction.

Meeting

The bill requires the commission to meet at least once annually during October and keep a written record of all its proceedings.

It requires the commission to conduct an independent study of the economics and practices of the milk industry to assist itself in establishing minimum milk prices at least once every three years. The study must include a compilation of cost and profit data of dairy milk producers, farms, processors, distributors, and retailers.

The commission's chairperson may call a special meeting when necessary or requested in writing by two or more commission members.

NORTHEAST INTERSTATE DAIRY COMPACT

The bill requires the governor to appoint two Milk Commission members as delegates to the Northeast Interstate Dairy Compact Commission, if Congress chooses to reestablish it (see BACKGROUND). Under current law, the governor must appoint these delegates from the Milk Regulation Board's membership. The bill also changes the governor's other appointees, retaining one person representing dairy farmers and eliminating the appointment of (1) one milk consumer , (2) one milk processor, (3) one dairy farmer, and (4) one milk retailer.

BACKGROUND

Related Bill

sSB 1257, establishes a milk handler's fee that the Milk Commission may authorize under this bill, which handlers must pay to the Department of Revenue Services. The per gallon fee is based on the federally set price and goes into the General Fund.

Northeast Interstate Dairy Compact

The 1996 federal farm bill authorized the U.S. agriculture secretary to allow New England states to enter into a regional dairy compact. A commission consisting of representatives of the member states governed the compact. The law allowed the commission to set a minimum price for fluid milk that could exceed the price the federal government set in its marketing order. In setting the minimum price, the commission had to consider various factors, including the price

needed to provide a reasonable return to dairy farmers and milk distributors. For example, in July 2000, the price under the federal order for fluid milk was \$15.71 per hundredweight; the price set by the compact was \$16.94 per hundredweight.

The compact expired September 30, 2001 when Congress chose not to renew it. Compact proponents argued that it helped New England dairy farmers and preserved land without using federal aid. Its opponents said it created an unfair advantage for New England dairy farmers and argued that the compact hurt consumers.

Commerce Clause

The commerce clause gives Congress the power “to regulate Commerce with foreign Nations, and among the Several States” (*U. S. Const. Art. I § 8*).

Certain attempts by other states to regulate milk pricing over time have been challenged in court under the commerce clause. Commerce clause cases use two tests to determine the validity of state and local laws. A law that facially discriminates against interstate commerce violates the constitution unless there is no other means to advance a legitimate local interest. A law that is facially nondiscriminatory, supports a legitimate state interest, and only incidentally burdens interstate commerce is constitutional unless the burden is excessive in relation to local benefits.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/12/2007)